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S E C R E T SECTION 01 OF 02 LILONGWE 000113

SIPDIS

LONDON FOR AF WATCHER PETER LORD
ADDIS ABABA FOR USAU

E.O. 12958: DECL: 03/02/2019

TAGS: [PGOV](#) [KDEM](#) [MI](#)

SUBJECT: CORRUPTION CASE AGAINST MALAWI'S FORMER PRESIDENT
MOVES INTO HIGH GEAR

REF: A. 07 LILONGWE 531

[1](#)B. LILONGWE 110

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Classified By: Ambassador Peter Bodde for reasons 1.4 (b), (d)

[1](#)1. (S/NF) SUMMARY: Former President and current United Democratic Front (UDF) Presidential candidate Bakili Muluzi was arrested Feb. 25 on corruption charges. Immediately released on bail, Muluzi awaits a date for a High Court hearing on the case. Investigations began into Muluzi's alleged corruption in 2005, but are only now coming to court following extensive legal maneuvering. The timing is particularly sensitive, with presidential elections scheduled May 19. Although the corruption investigation was certainly legitimate, the timing of the present action was affected by political considerations. U.S. authorities have provided standard assistance to Malawi's Anti-Corruption Board in verifying financial transactions related to the charges. End Summary.

[1](#)2. (U) Malawi's Anti-Corruption Bureau (ACB) served former President Bakili Muluzi with a warrant for his arrest on Feb. [1](#)25. Appearing before the Blantyre Magistrates' Court, Muluzi was formally charged with 87 counts of corruption, later consolidated to seven counts. The charges relate to allegations that Muluzi diverted donor money into his private accounts during the ten years he was President. Muluzi was granted bail and released the same day. The Magistrates' Court also accepted a motion from Muluzi's lawyers to transfer the case to the High Court. A date for the hearing has yet to be announced. ACB officials claim that they are fully ready to proceed with the case at any time.

[1](#)3. (U) Investigations of Muluzi initially began under the Corrupt Practices Act in 2005, but were interrupted by various injunctions and appeals filed by Muluzi's lawyers. The final injunction was removed in late January of this year after Muluzi's final procedural appeal was dismissed. During his ten-year presidency, Muluzi is accused of diverting USD 12 million in donor money into his personal accounts. He also faces questions regarding his acquisition of an office park and other property, and the purchase of 106 vehicles by his UDF party during the 2004 presidential campaign. According to numerous credible sources, there is sound evidence for at least some of the corruption allegations.

[1](#)4. (S/NF) In June 2008, the ACB approached the Embassy for assistance in tracing money flows related to the investigation that went through U.S. bank accounts (reftel). The Embassy referred the ACB to the regional Legal Attache.

ACB assistant director Victor Banda has since notified the Embassy that U.S. Department of Justice officials have been cooperating with the ACB investigation. In December, Banda told emboff that the ACB would use the U.S. financial records as evidence in the case, but wanted to make sure it introduced the foreign evidence in a way that would stand up to legal challenges in Malawi.

¶5. (C) Comment: Despite the ACB's claim to the contrary, the timing of the case was influenced by the political calendar. Muluzi's appeal was originally filed in 2005 but was only resolved in December of last year after the ACB director himself took steps to facilitate its hearing. Given the long period of inaction, many believe that the impending elections contributed to renewed action on the case. The current arrest came just one day after former African heads of state Chissano and Kufour announced they would facilitate a three-way peace dialogue between Muluzi, President Mutharika, and Malawi Congress Party Leader John Tembo. During those discussions, the ex-presidents reportedly proposed to Mutharika that he pardon Muluzi on the corruption charges in return for Muluzi's withdrawal from the Presidential race (ref B). Kufour and Chissano will now return to try to get the planned dialogue back on track.

¶6. (C) In addition to his pending corruption case, Muluzi is awaiting the announcement from the Malawi Electoral Commission (MEC) on his eligibility under the constitution to stand for election a third time. A criminal conviction -- or a declaration of bankruptcy -- would render him ineligible to stand, although neither is likely before the March 20 MEC announcement, and probably not before the May 19 elections. His latest arrest will remind the public that even if Muluzi is allowed to run, a potential conviction would block his path to reclaiming the Presidency. At the same time, the

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arrest is also likely to galvanize support for Muluzi from his UDF partisans. End Comment.
BODDE